

PARTIES

5. Plaintiff is a natural person who resides in the City of West Chester, Butler County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by *15 U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in *15 U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Texas business entity and a debt collector with an office in Dallas, Texas.
8. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant is seeking to collect an allegedly owed and due consumer obligation that Plaintiff disputes he lawfully owes.
11. Plaintiff receives calls from Defendant at telephone number: 513-520-2721.
Defendant places calls to Plaintiff from telephone number: 800-214-7816.
12. In order to verify that the phone calls he was receiving were, in fact, from Defendant, in May 2012, Plaintiff called the telephone number listed on

Defendant's website (214-324-9575) and spoke to an agent of Defendant's identifying himself as "John Mitchell." Mitchell confirmed that Defendant has placed calls to Plaintiff and that Plaintiff has an account with Defendant.

13. Mitchell, acting on behalf of the Defendant, threatened that Defendant would seize the Plaintiff's home and that it would freeze Plaintiff's bank accounts when, upon information and belief, Defendant had no lawful and immediate right to seize Plaintiff's home or bank accounts and had no present intention of undertaking such action, and thus such statements were misrepresentative and deceptive and were made for purposes of attempting to coerce or harass the Plaintiff into paying the alleged debt.

14. During the course of the communication with Plaintiff, Mitchell claimed to have a case number for a lawsuit filed against the Plaintiff. Upon information and belief, at the time Mitchell made this claim, no such lawsuit had been filed against Plaintiff, and thus such statements were misrepresentative and deceptive and were made for purposes of attempting to coerce or harass the Plaintiff into paying the alleged debt.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. Defendant violated §1692e by using any false, deceptive, or

misleading representation or means in connection with the collection of a debt.

- c. Defendant violated §1692e(2)(A) by the false representation of the character, amount, or legal status of a debt.
- d. Defendant violated §1692e(4) by the representation or implication that nonpayment of any debt will result in the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intend to take the action.
- e. Defendant violated §1692e(5) by threatening to take any action that cannot be legally taken or is not intended to be taken.
- f. Defendant violated §1692f by using any unfair or unconscionable means to collect or attempt to collect a debt.
- g. Defendant violated §1692f(6)(B) by threatening to take any non-judicial action to effect dispossession or disablement of property when there is no present intention to take possession of the property.

WHEREFORE, Plaintiff, James Hoskins, respectfully requests judgment be entered against Defendant, for the following:

- 16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
- 17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
- 18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, James Hoskins, requests a jury trial in this case.

Respectfully submitted,

KAHN & ASSOCIATES, LLC

/s/ J. Daniel Scharville

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